

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of R. LUCAS, Minor.

UNPUBLISHED

August 19, 2014

No. 320056

Berrien Circuit Court

Family Division

LC No. 2013-000123-NA

Before: M. J. KELLY, P.J., and SAWYER and HOEKSTRA, JJ.

PER CURIAM.

Respondent-mother appeals by right the trial court's order terminating her parental rights to the minor child. Because we conclude there were no errors warranting relief, we affirm.

Respondent does not challenge the trial court's finding that the Department of Human Services established by clear and convincing evidence grounds for terminating her parental rights under MCL 712A.19b(3)(l). Instead, she argues on appeal that the trial court clearly erred when it found that termination was in the child's best interests. See MCL 712A.19b(5). We review for clear error the trial court's determination regarding the best interests of the child. MCR 3.977(K); *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009). A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made. *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009).

If the trial court finds that the petitioner has established a ground for termination, it must order the termination of the respondent's parental rights if it also finds "that termination of parental rights is in the child's best interests." MCL 712A.19b(5). "[W]hether termination of parental rights is in the best interests of the child must be proven by a preponderance of the evidence." *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). The trial court must weigh the evidence available on the whole record in determining the child's best interests. *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000). It may consider such factors as "the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re Olive/Metts Minors*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012) (citations omitted). Other considerations include the length of time the child has been in foster care or placed with relatives, the likelihood that "the child could be returned to her parent's home within the foreseeable future, if at all[.]" and compliance with the case service plan. *In re Frey*, 297 Mich App 242, 248-249; 824 NW2d 569 (2012).

The trial court did not clearly err when it found that termination was in the child's best interests. The child spent much of her first three years of life in foster care because respondent continued to abuse drugs—a problem that she has had for many years. Respondent was unable to overcome her addiction even after her parental rights to several other children were terminated; indeed, the child in this case tested positive for cocaine at the time of her birth. Respondent also lacked stable housing and employment and did not have a significant source of income. Finally, respondent failed to participate in the services the Department offered to her and had no contact with the Department or the child after the preliminary hearing. As the trial court recognized, the child needed permanence and stability in her life, which respondent was unwilling or unable to provide.

We reject respondent's argument that termination was not in the child's best interests because the trial court did not also terminate father's parental rights. See *In re Ramsey*, 229 Mich App 310, 316-317; 581 NW2d 291 (1998). The record supports the trial court's finding that reunification with the father was possible, but could be hindered by respondent's issues. It was thus permissible for the court to terminate respondent's parental rights, but allow father to continue services while the child remained in the Department's custody.

There were no errors warranting relief.

Affirmed.

/s/ Michael J. Kelly
/s/ David H. Sawyer
/s/ Joel P. Hoekstra